

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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LEON DUNCAN,

Petitioner,

03 CV 6218 (NG)(SMG)

- against -

ORDER

BRIAN FISCHER,

Respondent.

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GERSHON, United States District Judge:

In a Report and Recommendation dated November 3, 2005, the Honorable Steven M. Gold has recommended denial of this petition for a writ of habeas corpus. Petitioner has filed objections which I find to be without merit. Magistrate Judge Gold's report is adopted in its entirety, as I agree fully with his well-reasoned analysis.

Petitioner's application for a writ of habeas corpus is denied. As petitioner has failed to make a substantial showing of the denial of a constitutional right, a certificate of appealability is denied pursuant to 28 U.S.C. § 2253(c). Moreover, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that *in forma pauperis status* is denied for the purpose of an appeal. The Clerk of Court is directed to enter judgment in accordance with this order.

SO ORDERED.

/s/ *Nina Gershon*

NINA GERSHON

United States District Judge

**Dated: January 19, 2006
Brooklyn, New York**

